

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26423 PERMIT 18523 LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE

WHEREAS:

1. Permit 18523 was issued to Peter A. Gasser on May 19, 1982 pursuant to Application 26423.
2. Permit 18523 was subsequently assigned to William E. Jarvis.
3. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (Board).
4. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

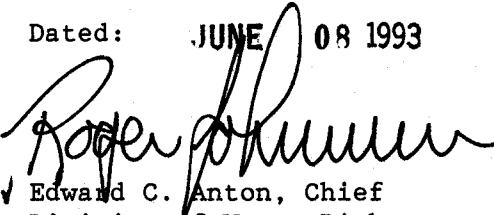
1. Condition 7 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1998

(0000009)

Dated: JUNE 08 1993


Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26423

PERMIT 18523

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE,
AND AMENDING THE PERMIT

WHEREAS:

1. Permit 18523 was issued to Peter A. Gasser on May 1982 and was subsequently assigned to the Tower Conservatory on July 25, 1985.
2. A petition for extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board.
3. The permittee has proceeded with diligence and good cause has been shown for extension of time.
4. The permit paragraph pertaining to the continuing authority of the Board does not conform to the current common law public trust doctrine as contained in Title 23, California Code of Regulations, Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. A new development schedule is approved as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 1991 (000 000 8)

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 1992 (000 000 9)

2. Paragraph 10 of this permit be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.


The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing

evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(000 0012)

Dated: MAY 09 1988


Walter G. Pettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18523

Application 26423 of Peter A. Gasser owner
2826 Monticello Road, Napa, California 94558

filed on June 19, 1980, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Milliken Creek thence
Napa River thence
San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
South 520 feet and West 800 feet from NE corner of Section 19	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	19	6N	3W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Fire Protection						
Recreational	<u>John</u>					
Stockwatering	Ruby Lake in NE $\frac{1}{4}$ of NE $\frac{1}{4}$	19	6N	3W	MD	
Irrigation	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	19	6N	3W	MD	15
	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	19	6N	3W	MD	15
	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	19	6N	3W	MD	15
					Total	45

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total 0.6 cubic foot per second by direct diversion to be diverted from April 15 to June 1 of each year and 45 acre-feet per annum by storage to be collected from November 1 of each year to June 1 of the succeeding year. The total amount of water to be taken from the source shall not exceed 100 acre-feet per water year of October 1 to September 30.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(000 000 5)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(000 000 6)

7. Complete application of the water to the authorized use shall be made by December 1, 1986.

(000 000 9)

amended 5-9-88

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

(000 000 10)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(000 000 11)

10. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

(000 000 12) amended 5-9-88

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(000 000 13)

2. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 0.5 cubic foot per second by direct diversion to be diverted from April 15 to June 1 of each year and 15 acre-feet per annum by storage to be collected from November 1 of each year to June 1 of the succeeding year. The total amount of water to be taken from the source shall not exceed 100 acre-feet per water year of October 1 to September 30.

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

3. The amount authorized for appropriation may be reduced in the license if investigation warrants.

4. Complete application of the water to the authorized use shall be made by December 1, 1936.

5. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

6. Permittee shall file representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board reasonably access to project works to determine compliance with the terms of this permit.

7. Pursuant to California Water Code Sections 100 and 272, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the controlling authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing an order requiring over and above those contained in this permit with a view to maintaining waste of water and to meeting the reasonable water requirements of permittees within unreasonable limits on the source. Permittee may be required to implement such programs as: (1) removal or reduction of water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to minimize agricultural fallwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophyte growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing that such action is required and are physically and financially feasible and are appropriate to the particular situation.

8. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity to be heard, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) and/or waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any significant effect on water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

12. Permittee shall, when required by the State Water Resources Control Board, install and maintain an outlet pipe of adequate capacity in his dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit may be released.

(005-0044)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 19 1982

STATE WATER RESOURCES CONTROL BOARD

Raymond Wash

Chief, Division of Water Rights

P18523

2-4-83 name chgd to Estate of Peter A. Gasser
7-25-85 asgd to Tower Conservatory
4-7-93 asgd to William E. Gaines